

AMENDED IN SENATE MAY 1, 2006  
AMENDED IN SENATE APRIL 18, 2006  
AMENDED IN SENATE MARCH 27, 2006

**SENATE BILL**

**No. 1286**

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**Introduced by Senator Ducheny**

February 14, 2006

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An act to add Chapter 9 (commencing with Section 39950) to Part 2 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1286, as amended, Ducheny. Binational air pollution.

Existing law imposes various limitations on emissions of air contaminants for the control of air pollution from vehicular and nonvehicular sources. Existing law generally designates the State Air Resources Board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources.

This bill would, upon the execution of a memorandum of understanding between any state agency, the County of Imperial, the State of Baja California, and the City of Mexicali that establishes a binational council to address air quality issues in the binational air basin that encompasses the Imperial County and the City of Mexicali, Baja California, specify the membership of the California delegation to the binational council. The bill would require the meetings of the California delegation to be subject to the Ralph M. Brown Act. The

bill would require the binational council to perform specified functions, including, but not limited to, identifying and recommending to the state and local governments of both California and Baja California strategies and actions that could be taken to improve air quality within the air basin. The bill would also require the binational council to establish certain basinwide goals.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 9 (commencing with Section 39950) is added to Part 2 of Division 26 of the Health and Safety Code, to read:

CHAPTER 9. BINATIONAL AIR POLLUTION

39950. (a) Upon the execution of a memorandum of understanding between any state agency, the County of Imperial, the State of Baja California, and the City of Mexicali that establishes a binational council to address air quality issues in the binational air basin that encompasses Imperial County, California, and the City of Mexicali, Baja California, all of the following shall apply:

(1) The membership of the California delegation shall be as follows:

- (A) The chairperson of the state board.
- (B) The Imperial County Director of Public Health Services.
- (C) The Imperial County Air Pollution Control Officer.
- (D) One member of the Imperial County Board of Supervisors, as designated by the board.
- (E) Two public members appointed by the Imperial County Board of Supervisors.
- (F) The President of the Imperial Irrigation District Board of Directors or his or her designee.

(2) The chairperson of the state board shall serve as the chair of the California delegation to the binational council.

(3) The Secretary for Environmental Protection and the Secretary for the United States Environmental Protection Agency

1 shall be invited to participate as nonvoting, ex officio members  
2 of the council.

3 (4) The meetings of the California delegation shall be subject  
4 to the Ralph M. Brown Act, Chapter 9 (commencing with  
5 Section 54950) of Part 1 of Division 2 of Title 5 of the  
6 Government Code.

7 (b) In case of conflict between this section and the  
8 memorandum of understanding, the provisions of this section  
9 shall apply.

10 39951. (a) The binational council may sponsor conferences,  
11 symposiums, and other public forums, to seek a broad range of  
12 public advice when establishing priorities for improving air  
13 quality within the binational air basin.

14 (b) The council shall do all of the following:

15 (1) Assist in the coordination of activities by state and local  
16 agencies on both sides of the border between California and  
17 Mexico, relating to the protection and regulation of air quality.

18 (2) Establish policies to coordinate the collection and sharing  
19 of scientific data related to air pollution and air quality protection  
20 measures.

21 (3) Identify and recommend to the state and local governments  
22 of both California and Baja California changes in law needed to  
23 achieve the goals of this chapter.

24 (4) Identify and recommend to the state and local governments  
25 of both California and Baja California strategies and actions that  
26 could be taken to improve air quality within the binational air  
27 basin.

28 (5) Identify changes in federal law and policy of both the  
29 United States and Mexico that are necessary to achieve the goals  
30 of this chapter and to improve air quality within the binational air  
31 basin.

32 39952. The binational council shall, pursuant to specific  
33 processes established in the memorandum of understanding that  
34 establishes the binational council, establish basinwide goals to  
35 assist the state and local governments to do all of the following:

36 (a) Achieve ambient air quality standards for the binational air  
37 basin.

38 (b) Monitor ambient air pollutant concentrations in the  
39 binational air basin.

- 1 (c) Develop and maintain a valid emissions inventory for the  
2 binational air basin, updated and disaggregated as practicable.
- 3 (d) Conduct basinwide air quality modeling to identify  
4 appropriate control strategies for attainment of ambient air  
5 quality standards.
- 6 (e) Monitor the health of residents to track the incidence of  
7 health problems within the binational air basin.
- 8 (f) Establish instruments to promote and achieve ~~voluntary~~  
9 ~~compliance and emission~~ *emissions* reductions.
- 10 (g) Promote partnerships between and among industry and  
11 regulatory authorities on both sides of the border to pursue  
12 economic incentives according to each country's laws.
- 13 (h) Investigate opportunities for pursuing, and seek  
14 authorization from respective state and federal governments to  
15 pursue, strategies ~~such as intranational and international emission~~  
16 ~~trading that facilitates~~ *that facilitate* the achievement of  
17 environmental and public health goals.